

TO: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

FROM: Robert J. Berger UltraDevices, Inc.
257 Castro Street, Suite 223 Mt. View CA. 94041
Email: rberger@ultradevices.com <http://www.ultradevices.com>
Voice: 650-237-0334 Fax: 408-490-2868

SUBJECT: Comments on Microsoft Settlement (Don't be like Brer Fox)

It is critical that the current wording in the settlement that wording in the settlement that requires Microsoft to only deal with commercial companies for some of the remedies needs to be opened up to non-commercial, open source and governmental entities as well.

For instance, Microsoft's greatest single threat on the operating system front comes from Linux -- a non-commercial product -- and it faces a growing threat on the applications front from Open Source and freeware applications.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "... (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only.

With this wording, the government is shut out, too. NASA, the national laboratories, the military, the National Institute of Standards and Technology -- even the Department of Justice itself -- have no rights.

So you can see that the current wording actually helps to reinforce Microsofts Monopoly. Please don't let Microsoft use the "Brer Rabbit Briar Patch" trick (<http://www.otmfan.com/html/brertar.htm> if you are not already familiar with it) to get exactly what they want.
--